

REMARKS

This communication is in response to the Office Action mailed on October 18, 2006. In the Office Action, claims 1-27 were pending.

Request for complete initialled copy of PTO-1449

Before addressing the substantive rejections in the Office Action, Applicant notes that the copy of the PTO-1449 form returned in the Office Action for the references cited in Applicant's Supplemental IDS of Jan. 25, 2006 did not include the Examiner's initials for references AO and AP. A recent review by the undersigned of the PAIR system reveals two documents listed as "NPL Document." Although unavailable for viewing by the public, it is believed these documents are indeed references AO and AP. Apparently, these documents were not available to the Examiner according to the copy of the PTO-1449 form at the time of his review of the case. In view that they are probably available now, Applicant respectfully requests an updated PTO-1449 form reflecting consideration of these references in the next communication from the Patent Office.

Non-statutory subject matter claims 1 and 18

The Office Action first reports that claims 1 and 18 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. In particular, it was reported that "making" data on energy flow accessible have no direct effect on the physical world outside the computer. Applicant has amended both claims 1 and 18 clarify that energy flow data is "accessed", as recited in claim 1, and "outputted" as recited in claim 18. It is believed these changes reflect a direct effect on the physical world, and thus accordingly, claims 1 and 18 recite patentable subject matter. Withdrawal of the rejection is respectfully requested.

Other Claim Amendments

At this point it should be noted that other claims have been amended to enhance understanding or correct the antecedent basis of elements recited therein. None of these amendments were made in view of any prior art.

Anticipation of claims 1-27 by Samuelson

The Office Action next reports that claims 1-27 were rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/0055776 (Samuelson). Samuelson relates to a method and apparatus for bundling transmission rights and energy for trading. An exemplary network is disclosed in Figure 1 containing nodes connected by transmission lines, some of which are constrained by flow gates A, B and C (paragraphs [0008], [0029], [0032]-[0037]).

In particular, the method of Samuelson involves accepting offers of participants to sell complete bundles of energy and transmission rights and to allow participants to enter bids to buy complete bundles of energy and transmission rights. Sale bundles are disassembled by an optimization system into component elements (energy and transmission rights). The component elements are then reassembled to provide the bid bundles. An ex-ante quote is calculated for point-to-point transmission rights on the basis of standing bids and offers of other participants. If the quote is attractive for the participant, he may place an order (paragraphs [0069] and [0070]).

Samuelson takes the position that, although the network contains constrained network connections (flow gates, paragraph [0029]), the total transmission capacity of the network connections is sufficient for transferring energy between any two

nodes. The problem addressed by Samuelson is that, specifically for AC power networks, the transferring paths for the energy are uncertain and that, accordingly, obtaining transmission rights for certain flow gates does not guarantee that the energy can be transferred between the desired nodes at a predetermined price (paragraphs [0026]-[0028]; [0048] and [0049]). Since the total transmission capacity between the nodes in Samuelson is always sufficient, Samuelson is able to treat the complete network as a single market receiving complete bids from all participants and match these.

In contrast, the invention as recited in the independent claims of the present application relates to the situation wherein the transportation capacity may not be sufficient to transport energy between a first area and a second area. Therefore, a first step of the present invention is to fix isolated energy prices in the first and second area, i.e. the energy prices in the areas divided by the network connection with limited transportation capacity. Samuelson does not teach or suggest a step of fixating energy prices for areas divided by the flow gates A, B and C in Figure 1. It is noted that the market segments mentioned e.g. in paragraph [0330] of Samuelson are not disclosed to have a one-to-one correspondence with areas divided by the flow gates A, B and C but relate to markets under the control of different regulatory systems.

Consequently, Samuelson does *also* not teach or suggest to adjust these isolated energy prices on the basis of simulated transportation of energy and the available transportation capacity. As shown in Figures 3D and 3E, the simulation may result in either a common adjusted energy price CEP or different adjusted energy prices AEP for the two areas, depending on whether or not the available transportation capacity of the network connection is sufficient. Such a simulation is not taught or suggested by Samuelson.

In summary, Samuelson does not disclose the subject matter of claims 1, 10, 11, 17, 18 and 27 and, therefore, the subject matter is novel and non-obvious over the prior art of record. Each of the remaining claims depend directly or indirectly from the foregoing claims. When the features recited in each of these claims is combined with the features recited in the independent claims, and any intervening claims, Applicant respectfully believes each of these claims is separately patentable.

In view of the foregoing, Applicant respectfully requests reconsideration of the application as amended. Favorable action upon the pending claims is solicited.

An extension of time is hereby requested for responding to the Office Action. An online charge authorization for the extension of time fee is included herewith.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: 

Steven M. Koehler, Reg. No. 36,188  
900 Second Avenue South, Suite 1400  
Minneapolis, Minnesota 55402  
Phone: (612) 334-3222 Fax: (612) 334-3312

SMK:bms